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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/045,134
Filing Date: November 07, 2001
Appellant(s): TORRENS-BURTON, PATRICIA A.

Roy W. Truelson (Reg # 35,265)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 2/19/09 appealing from the Office action mailed 2/19/.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,892,399	Catanoso	05-2005

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1,3-5,9,10,13-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over US PAT 6,892,388 to Catanoso.

As to claim 1, Catanoso discloses a method of providing souvenir images (col 1, lines 52-54) comprising: capturing data (a plurality of images) during an event (col 1, lines 52-54), associated with one location (their seat) that is occupied during the event by a discrete subset of customers (the person whose seat it is), which subset would be more than none and less than all, receiving, in an interactive device (col 2, lines 10-15) desired location from among a plurality of locations (that for which the picture is desired), information from the customer (inherent in that the desired images are sold to the customer, col 6, lines 12-14), automatically displaying the image at an automated, interactive playback device (at playback station 60) in response to a request (the user is

shown to request images and they are displayed). Catanoso further discloses using motion video (video clips, col 2, lines 11-15 via a video camera, claim 1 and further discussed in col 1, lines 29-31 as discussed in the background of the invention).

Catanoso does not, however teach displaying images of a certain spot in response to input from the customer or specifically discuss being able to use the playback monitor for more than one location. Catanoso does, as discussed, teach displaying images in response to input. It would have been obvious to one of ordinary skill in the art to modify the system as taught by Catanoso by allowing the user to specify the location to ensure that the proper pictures are placed in the souvenir and further, to allow the user to get playback from more than one location so the user could get videos of more than one ride on each souvenir so and not have to go to multiple playback machines for each day.

As to claim 16, Catanoso discloses a selection input device (playback workstation 60), a processor that correlates location desired location with actual location (inherent in that the system uses a computer for which a processor is necessary, fig 1 and the images are shown to be provided based on user requests) and an image delivery apparatus (that which produces the CD-ROM, col 2, lines 4-6).

As to claim 3, the image is electronic (col 5, lines 2-3, digitized being electronic).

As to claim 4, Catanoso does not disclose the image as being of a scoreboard display. Catanoso does, however, teach the system as being used at an athletic event (col 5, lines 44-47). Therefore, it would have been obvious to one of ordinary skill in the art to include images of a scoreboard to memorialize important events that would be

displayed on the scoreboard, such as: Final score or an important milestone like an important event (such as a famous player's 3,000th hit).

As to claim 5, Catanoso does not teach the image as comprising a television broadcast image. Catanoso does teach the system as being used at events that are televised (such as an athletic event as discussed in relation to claim 4). Therefore, it would have been obvious to one of ordinary skill in the art for the image to comprise a television broadcast as ballparks already contain many television cameras for broadcast to an audience and using already installed cameras that are used to capture as much action as possible would be less costly than requiring a myriad of new cameras.

As to claims 6,23, the image is a video clip (col 3, lines 32-38).

As to claim 9, the souvenir is purchased (col 6, lines 12-15).

As to claim 10, it would have been obvious to one of ordinary skill in the art to use seat number from the customer so as to include an image of the customers at the event in their seats.

As to claim 13, Catanoso does not teach using electronic mail as the method to provide the customer with the souvenir. Catanoso does teach using a computer (fig 1) and saving the video in AVI format (a tagged and compressed format, col 3, lines 65-67). The examiner takes Official Notice that sending video clips in AVI format through electronic mail is old and well known in the art and further, the examiner takes Official notice that it is old and well known to connect computers to the Internet and therefore, it would have been obvious to one of ordinary skill in the art to send the images via

electronic mail to make the souvenir cheaper as the customer would not have to pay for the production of a CD-ROM or other media carrying device.

As to claims 14, the image is a printed photograph (col 5, lines 33-37).

As to claim 15, the image is written on a signal bearing media (CD-ROM, col 2, lines 4-6).

As to claim 17, the playback workstation (60) would be a "kiosk".

As to claim 18, the printer (col 5, lines 33-37) would inherently and necessarily be operably connected to the kiosk else the printer would not know which image or images to print.

As to claim 19, a CD-ROM is an optical disc as it uses lasers.

As to claim 20, Catanoso does not teach the input method for the computer. The examiner takes Official Notice that touch screen monitors and keypads are old and well known as input devices for computers. Therefore, it would have been obvious to one of ordinary skill in the art to use a touch screen monitors and keypads as these are well known to most computer users and would not require training for the customer that more esoteric devices might require.

As to claim 21, the system is connected to a computer network (fig 1 shows the network).

As to claim 22, Catanoso discloses a stadium display unit (playback workstation 60).

As to claim 24, Catanoso discloses a camera capturing a plurality of images (col 4, lines 48-50), receiving payment (inherent in that the souvenir is purchased, col 6,

lines 12-14) so there would inherently be a "payment receiver" and printer (col 5, line 36), the system inherently would correlate the images with the location else the customer could receive the wrong image. Catanoso does not, however, teach how to receive the payment, a ticket reader or taking images related to the seat. It would have been obvious to one of ordinary skill in the art to use seat number from the customer so as to include an image of the customers at the event in their seats and further to use a ticket reader as this would ensure that an improper seat number was not entered.

As to claim 25, as the method as claimed is done by Catanoso, as discussed in the above rejection, and further as it is done by a computer (fig 1), it would inherently be a computer program product.

As to claim 26, Catanoso discloses displaying a subset of images (at different times), the system is shown to print those pictures desired by the customer.

As to claims 27 and 29, Catanoso discloses the ability to edit the video (col 2, lines 7-15). Therefore, it would have been obvious to one of ordinary skill in the art to modify the system as disclosed by Catanoso by allowing the user to add a personalized message (such as, "Our trip to the amusement park") to make the souvenir more enjoyable for the user.

As to claim 28, Catanoso discloses a subset of images (from each ride or attraction), each subset is shown to be displayed (as the customer can buy the images), the customer chooses the images and the system 'automatically' provides them.

(10) Response to Argument

As to arguments in relation to the "use of a location which is associated with a customer..." (from page 8 of the appeal brief), as discussed in previous responses and rejections, the customer will necessarily be in a location, as the customer peruses and purchases pictures of the customer in a park, the location must be used or else the customer could not choose the "location" of the rides ridden for purchase of souvenir pictures. As to arguments that the location is a form of index, In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., any indication of location as an "index") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As to arguments in relation to an "event", as discussed in previous responses and rejections, the term "event" is extremely broad and could be met in many, many different ways. An event could be: a day at the amusement park, a day at the ballpark, a ride at an amusement park, even watching a ride at an amusement park. Contra appellant's assertion on page 14, the examiner has repeatedly mentioned that the term 'event' is broad and could be anticipated in many ways. The kiosk of the prior art necessarily discloses an "event site location" as the customer must input a "location" to get the picture desired and any location would meet the phrase "event site location". As discussed in previous responses and rejections, the prior art does disclose an input, if there were no input, how would the system know what to display and sell? If the system were set up so, customers would be purchasing random pictures and videos of random

people in random locations around the park. As to arguments on page 15, second paragraph, "However, m scaling this approach... a football game or rock concert..." First, there is no limitation concerning a rock concert or a football game in the claims, further, as discussed previously, Catanoso discloses amusement parks and sporting events (col 5, lines 45-50). As to assertion that there is a suggestion that Catanoso does not disclose an attendee at the sporting event, the examiner disagrees. Catanoso discloses, repeatedly, different cameras being connected to a network and using a kiosk, also connected to the network, to display and sell the pictures. Therefore, the instant invention is merely using a known system for its intended use. As to arguments in relation to input of an assigned seat location, as discussed in previous responses and rejections, this would be obvious as Catanoso discloses selling pictures and videos of customers at events, if the event were a sporting event (as disclosed by Catanoso), it would be obvious to use seating location to accomplish this.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,
MF
5/25/09

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